

IC 6-9-20

Chapter 20. Vanderburgh County Food and Beverage Tax

IC 6-9-20-1**Application of chapter**

Sec. 1. This chapter applies to a county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000).

As added by P.L.83-1985, SEC.1. Amended by P.L.12-1992, SEC.48; P.L.170-2002, SEC.45.

IC 6-9-20-2**Definitions**

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

As added by P.L.83-1985, SEC.1.

IC 6-9-20-3**Imposition of tax by ordinance**

Sec. 3. (a) The fiscal body of the county may adopt an ordinance to impose an excise tax, known as the county food and beverage tax, on those transactions described in section 4 of this chapter.

(b) If a fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) If a fiscal body adopts an ordinance under subsection (a), the county food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance was adopted.

(d) The tax terminates in a county on January 1 of the year immediately following the year in which the last of the bonds issued to finance the construction of an airport terminal and the last of any bonds issued to refund those bonds have been completely paid as to both principal and interest.

(e) Notwithstanding subsection (d), if the county fiscal body determines that the tax under this chapter should be continued in order to finance improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities, the tax does not terminate as specified in subsection (d) but instead continues until January 1 of the year following the year in which the last of the bonds issued to finance improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities, and the last of any bonds issued to refund those bonds, have been completely paid or defeased as to both principal and interest. An action to contest the validity of the determination under this subsection must be instituted not more than thirty (30) days after the determination.

As added by P.L.83-1985, SEC.1. Amended by P.L.28-1993, SEC.11; P.L.99-1995, SEC.6; P.L.69-1996, SEC.1.

IC 6-9-20-4

Taxable transactions; exemptions

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location, or on equipment, provided by a retail merchant;
- (2) in the county in which the tax is imposed; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include, but are not limited to, transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

(c) The county food and beverage tax does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

As added by P.L.83-1985, SEC.1. Amended by P.L.257-2003, SEC.34.

IC 6-9-20-5

Rate of tax

Sec. 5. The county food and beverage tax imposed on a food or beverage transaction described in section 4 of this chapter equals one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

As added by P.L.83-1985, SEC.1.

IC 6-9-20-6

Procedures for imposition, payment, and collection; returns

Sec. 6. The tax that may be imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the taxes may be made on separate returns or may be combined with the return filed for the

payment of the state gross retail tax, as prescribed by the department of state revenue.

As added by P.L.83-1985, SEC.1.

IC 6-9-20-7

Payment to airport authority

Sec. 7. The amounts received from the taxes imposed under this chapter shall be paid monthly by the treasurer of state to the treasurer of the airport authority established in the county upon warrants issued by the auditor of state until the treasurer of the airport authority certifies to the treasurer of state that the last of the bonds issued to finance the construction of an airport terminal and the last of any bonds issued to refund those bonds have been completely paid as to both principal and interest.

As added by P.L.83-1985, SEC.1. Amended by P.L.99-1995, SEC.7.

IC 6-9-20-7.5

Payment to county treasurer

Sec. 7.5. If:

- (1) the treasurer of the airport authority has certified to the treasurer of state that the last of the bonds issued to finance the construction of an airport terminal and the last of any bonds issued to refund those bonds have been completely paid as to both principal and interest; and
- (2) the county fiscal body has determined to continue the tax to finance improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities;

the amounts received from the taxes imposed under this chapter shall be paid monthly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

As added by P.L.99-1995, SEC.8. Amended by P.L.69-1996, SEC.2.

IC 6-9-20-8

Food and beverage tax receipt fund; deposits; use of fund

Sec. 8. (a) If a tax is imposed under section 3 of this chapter, the treasurer of the airport authority shall establish a food and beverage tax receipts fund.

(b) The airport authority treasurer shall deposit in this fund all amounts received under this chapter.

(c) Any money earned from the investment of money in the fund becomes a part of the fund.

(d) Money in this fund shall be used by the treasurer of the airport authority solely for the purpose of retiring bonds that were issued to finance or refinance the construction of a new airport terminal in the county, as provided in subsection (e).

(e) The treasurer of the airport authority shall apply the money in the fund as follows:

- (1) First, to replace revenues used by the airport authority to retire bonds issued under IC 8-22-3-18.1 to finance or refinance

the construction of a new airport terminal in the county.

(2) Second, any money in the fund that is not needed to replace revenues as required by subdivision (1) shall be used to make principal and interest payments on bonds issued under IC 8-22-3-18.1 to finance or refinance the construction of a new airport terminal in the county.

(f) The airport authority may use three hundred thousand dollars (\$300,000) for capital improvements at the airport after the last of the bonds issued to finance the construction of an airport terminal and the last of any bonds issued to refund those bonds have been completely paid as to both principal and interest. Except for this balance of three hundred thousand dollars (\$300,000), the money in this fund after the last of the bonds issued to finance the construction of an airport terminal and the last of any bonds issued to refund those bonds have been completely paid as to both principal and interest shall be transferred to the auditorium fund established under section 8.5 of this chapter.

As added by P.L.83-1985, SEC.1. Amended by P.L.1-1991, SEC.73; P.L.99-1995, SEC.9.

IC 6-9-20-8.5

Auditorium fund; deposits; use of fund

Sec. 8.5. (a) If the tax imposed under section 3 of this chapter is continued to finance improvements to the county auditorium or auditorium renovation resulting in a new convention center and related parking facilities, the county treasurer shall establish an auditorium fund.

(b) The county treasurer shall deposit in this fund all amounts received under this chapter.

(c) Any money earned from the investment of money in the fund becomes a part of the fund.

(d) Money in the fund shall be used by the county for the financing, construction, renovation, improvement, and equipping of a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities.

As added by P.L.99-1995, SEC.10. Amended by P.L.69-1996, SEC.3.

IC 6-9-20-8.7

Bonds, leases, or other obligations; validity

Sec. 8.7. (a) The county may issue bonds, enter into leases, or incur other obligations to:

(1) pay any costs associated with the financing, construction, renovation, improvement, and equipping of a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities; or

(2) refund bonds issued or other obligations incurred under this chapter so long as any bonds issued or other obligations incurred to refund bonds or retire other obligations do not extend the date that the previous bonds or other obligations will be completely paid as to principal and interest.

(b) Bonds issued or other obligations incurred under this section:

- (1) are payable solely from money provided in this chapter;
- (2) must be issued in the manner prescribed by IC 36-2-6-18 through IC 36-2-6-20 before January 1, 2002;
- (3) may not have a term that is longer than twenty-five (25) years after the date construction, renovation, or improvements on the county auditorium or auditorium renovation resulting in a new convention center and related parking facilities are completed; and
- (4) may, in the discretion of the county, be sold at a negotiated sale at a price to be determined by the county or in accordance with IC 5-1-11 and IC 5-3-1.

(c) Leases entered into under this section:

- (1) may be for a term not to exceed twenty-five (25) years;
- (2) may provide for payments from revenues under this chapter, any other revenues available to the county, or any combination of these sources;
- (3) may provide that payments by the county to the lessor are required only to the extent and only for the time that the lessor is able to provide the leased facilities in accordance with the lease;
- (4) must be based upon the value of the facilities leased; and
- (5) may not create a debt of the county for purposes of the Constitution of the State of Indiana.

(d) A lease may be entered into by the county executive only after a public hearing at which all interested parties are provided the opportunity to be heard. After the public hearing, the executive may approve the execution of the lease on behalf of the county only if the executive finds that the service to be provided throughout the life of the lease will serve the public purpose of the county and is in the best interests of its residents. A lease approved by the executive must also be approved by an ordinance of the county fiscal body.

(e) An action to contest the validity of bonds issued or leases entered into under this section must be brought not later than thirty (30) days after the adoption of a bond ordinance or commissioners' action approving the execution of the lease.

As added by P.L.99-1995, SEC.11. Amended by P.L.85-1995, SEC.37; P.L.69-1996, SEC.4.

IC 6-9-20-9

Bonds, leases, or other obligations; covenants of general assembly

Sec. 9. With respect to:

(1) bonds for which a pledge of airport authority revenues has been made by the airport authority, the Indiana general assembly covenants with the airport authority and the purchasers of those bonds that:

- (A) this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the tax imposed by this chapter; and
- (B) this chapter will not be amended in any manner that will

change the purpose for which revenues from the tax imposed by this chapter may be used;
as long as the principal of or interest on any of those bonds is unpaid; and

(2) bonds, leases, or other obligations for which a pledge of revenues of the food and beverage tax imposed under this chapter has been made by the county as set forth in section 8.7 of this chapter, and bonds issued by a lessor that are payable from lease rentals, the general assembly covenants with the county and the purchasers or owners of the bonds or other obligations described in this subdivision that this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the food and beverage tax imposed by this chapter as long as the principal of any bonds, the interest on any bonds, or the lease rentals due under any lease are unpaid.

As added by P.L.83-1985, SEC.1. Amended by P.L.99-1995, SEC.12.

IC 6-9-20-10 Repealed

(Repealed by P.L.99-1995, SEC.14.)

IC 6-9-20-11

County auditorium or auditorium renovation; financing and purpose

Sec. 11. The financing of improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities serves a public purpose and is of benefit to the general welfare of the county by enhancing cultural activities and improving the quality of life in the county and encouraging investment, economic growth, and diversity.

As added by P.L.99-1995, SEC.13. Amended by P.L.69-1996, SEC.5.